

BEFORE THE IDAHO BOARD OF TAX APPEALS

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| DODGE TRUST, |) | |
| |) | |
| Appellant, |) | APPEAL NO. 15-A-1171 |
| |) | |
| v. |) | FINAL DECISION |
| |) | AND ORDER |
| BONNER COUNTY, |) | |
| |) | |
| Respondent. |) | |
| |) | |
| |) | |
| |) | |

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Bonner County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RP000870000260A. The appeal concerns the 2015 tax year.

This matter came on for hearing October 26, 2015 in Sandpoint, Idaho before Board Member David Kinghorn. William Dodge appeared at hearing for Appellant. Bonnie Berscheid represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

The issue on appeal concerns the market value of an improved residential property.

The decision of the Bonner County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$501,700, and the combined improvements' value is \$90,970, totaling \$592,670. Appellant agrees with the values of the improvements, however, contends the correct land value is \$437,950, resulting in a total value of \$528,920.

The subject property is a .411 acre waterfront parcel situated on the east shore of Priest Lake, in Coolin, Idaho. The parcel is improved with a 1,163 square foot residence, a dock, and several small outbuildings. Subject's topography was described as difficult and steep. Access

to the mostly rocky beachfront is via a series of steep, wooden stairs.

Appellant challenged the methodology used by Respondent in assessing subject. Specifically, Appellant objected to the lakefront sales Respondent relied on in determining the front foot valuation rate which was applied to every parcel on Priest Lake. Appellant noted eight (8) of the nine (9) sales used by Respondent involved relatively flat parcels with sandy beachfronts and the capability of supporting large and/or multiple building pads. Appellant explained due to subject's roughly 38 degree slope there is only one (1) small area capable of supporting a residential structure. Photographs were offered to demonstrate the dissimilarities between subject's topography and Respondent's sale properties. Appellant argued consideration of subject's unique physical characteristics should have featured prominently in Respondent's analysis.

Appellant also objected to the disparate assessment treatment between subject and dozens of other lakefront parcels. Appellant explained in August 2014 there was an auction involving 60 lakefront parcels, of which 59 of the lots sold. The auction lots were owned by the State of Idaho and were previously leased to various individuals who were allowed to construct cabins and other improvements on the parcels. Prior to the auction, an independent appraisal was commissioned and the individual value conclusions contained therein were used to set the minimum auction bid prices. Each parcel sold at the minimum bid price, and the purchasers were mostly the lessees. The Bonner County Board of Equalization (BOE) set the assessed values of the auction lots at the individual purchase prices. The same level of land assessment was not afforded the non-auction lots, which in Appellant's view, created a separate class of lakefront properties in violation of Article VII, §5 of the Idaho Constitution.

In support of its value claim, Appellant contended the auction prices involving parcels with similar topography and beachfront as subject should be used. Six (6) such sales were offered in this regard. Photographs depicting the sale parcels' steep topography and rocky beachfronts were submitted. Sale prices ranged from \$1,575 to \$2,474 per front foot.

Appellant additionally referenced two (2) sales located in subject's immediate vicinity which recently sold. The first involved a parcel situated adjacent to subject. Appellant explained the property was originally listed for \$715,000, however, eventually sold for \$400,000 in September 2014, after two (2) years on the market. Appellant described this parcel as highly comparable to subject in terms of beachfront, however, noted the lot was more level, thus allowing more building site options. The second sale transpired in mid-2015. The parcel was superior to subject in terms of topography and beachfront, and was noted to include two (2) residences. Appellant reported this property was on the market for four (4) years with an asking price of \$800,000, and finally sold for \$590,000.

Respondent argued the auction sales could not be used to determine values because the sales were not arm's-length. Respondent took issue with some of the sales information and general methodology used in the appraisal. Respondent explained the auction sales were not market value transactions because the lessees who purchased the lots were specially motivated to own the land under their cabins. In Respondent's view, the atypical motivation of the buyers rendered the auction sales unreliable indicators of market value.

Respondent explained Priest Lake was assessed using a uniform front foot rate. This valuation rate was derived from nine (9) lakefront sales, seven (7) of which were improved. Three (3) of the sales were located on the east side of the lake, with the remainder mostly

situated on the more developed west side. In isolating land values, Respondent used the extraction method to remove the assessed values of the associated improvements from the respective sale prices. Details regarding the improvements were not shared. The residual land values of the improved sales ranged from \$5,103 to \$6,965 per front foot. The two (2) vacant parcels sold for \$4,891 and \$5,200 per front foot.

Respondent remarked Sale No. 2 involved a sloped parcel on the east side of the lake which sold near the top of the indicated price range. Based on this sale, Respondent concluded the market showed no preference for flat lots with sandy beachfronts over steep lots with rocky beachfronts. Appellant agreed the beachfront of Sale No. 2 was rocky, however, argued the parcel was otherwise dissimilar to subject. Appellant stated the sale involved two (2) improved lots, which were subsequently combined into a single parcel. Respondent conceded the lot was more level than subject, but maintained the sale represented a strong indicator of value for steep lots with rocky beachfronts.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2015 in this case. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable

time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The three (3) primary methods of determining market value are the cost approach, the income approach, and the sales comparison approach. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is often valued using the sales comparison approach, which in general terms entails a comparison between the property being assessed and recent sales of similar property. The parties in this appeal both provided sales information, however, the data was employed in vastly different ways in arriving at their respective value positions.

Appellant focused on six (6) properties which sold during an auction in August 2014, as well as two (2) sales in subject's immediate area. With the exception of the 2015 sale in subject's neighborhood, the sale properties were generally similar to subject in terms of access, topography, and beachfront. Sale prices ranged from \$1,575 to \$2,474 per front foot. Subject was assessed at \$4,887 per front foot.

Respondent disregarded the auction sales, relying instead on nine (9) lakefront sales situated around Priest Lake. Six (6) of the sales were located on the west side of the lake, which was noted to be more developed and easily accessible year-round from Highway 57. Eight (8) of the sales concerned mostly sandy beachfronts and level lots with multiple building site options. Sale prices were between \$4,891 and \$6,965 per front foot. Sale No. 2, on the other hand, was a somewhat steep lot with rocky beachfront located on the east side of the lake. This property sold for \$6,523 per front foot. Because Sale No. 2 sold near the top of the price range, Respondent concluded individual physical characteristics of lakefront lots, such as topography

and type of beachfront, were immaterial. As a result, Respondent assessed every lakefront lot at the same \$4,887 per front foot base rate.

While the Board understands Respondent's position, we do not find it well supported. Respondent's contention that physical characteristics are of no relevance at Priest Lake is based on a single improved sale involving a somewhat steep lot with a rocky beach. This position contradicts historical trends favoring flat lots with sandy beachfronts and multiple building site options over steep lots with limited building site options and rocky beachfronts. It also ignores the widely divergent prices of Respondent's own sales, which vary by roughly \$2,000 per front foot. Another concern we have with Sale No. 2 is, according to Appellant, the sale actually involved two (2) improved parcels which were then combined into one (1). Respondent's methodology further does not conform to accepted appraisal practice, which begins with consideration of a property's physical characteristics. In examining Respondent's sale properties it is difficult to find physical similarities to subject, other than being located on Priest Lake.

Despite the Board's noted concerns with Respondent's valuation model, we are reluctant to rely simply on the reported prices of the auction sales. Respondent took issue with some of the information and methodologies used in the appraisal used to set the minimum auction bid prices. Unfortunately, a copy of the appraisal was not shared with the Board, so we are unable to evaluate for ourselves any potential flaws or areas of concern.

More troubling to the Board in this case is the disparate assessment treatment between the auction lots and the non-auction lots. The 59 lots sold at auction were assessed exactly at their respective auction prices. Subject, and all other non-auction lots, on the other hand, were assessed entirely differently. As noted above, the Board is unable to determine whether the

auction prices accurately reflected market value. This determination, however, is not relevant because the decision to assess the auction lots at their sale prices and not afford similar treatment to the non-auction lots created two (2) separate classes of residential lakefront property in violation of the Idaho Constitution. “The requirement that all property be assessed at its actual cash value is secondary to the constitutional mandate of equality of taxation. Where certain property is assessed at a higher valuation than all other property, *the court will enforce the requirement of uniformity by a reduction of the taxes on the property assessed at the higher valuation*, if it be shown that the difference is the result not of mere error in judgment, but of fraud or of *intentional and systematic discrimination*.” (Emphasis added). *Washington County v. First Nat’l Bank*, 35 Idaho 438, 444, 206 P. 1054, 1056 (1922). Subject was assessed substantially higher than similar auction lots. The only available remedy at this stage is to reduce subject’s land value.

Idaho Code § 63-511 requires Appellant to prove error in subject’s valuation by a preponderance of the evidence. The Board finds the burden of proof satisfied in this instance.

Based on the above, the decision of the Bonner County Board of Equalization is reversed to reflect a reduction in subject’s land value to \$437,950, which includes the value attributable to the onsite improvements.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, REVERSED, reducing subject’s land value to \$437,950, with no changes to the values of the various improvements, for a total value of \$528,920.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

Idaho Code § 63-3813 provides that under certain circumstances the above ordered value for the current tax year shall not be increased in the subsequent assessment year.

DATED this 6th day of January, 2016.